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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,269	05/15/2001	Daniel Wise	25,067 USA	9154

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EXAMINER

VIG, NARESH

ART UNIT PAPER NUMBER

3629

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

JR

Office Action Summary

Application No.

09/855,269

Applicant(s)

WISE, DANIEL

Examiner

Naresh Vig

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 - 20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1 – 13 and 15 – 20 are rejected under 35 USC § 102 as being unpatentable over solution provider Liquidation.Com (www.liquidation.com).

Regarding claims 1 – 3 and 10 – 11, Liquidation.com discloses that its “open technology platform integrates multiple vertical exchanges and brick-and-mortar enterprises into a single global surplus network of buyers and sellers, lowering transaction costs and achieving superior liquidity.” Liquidation.Com’s online surplus exchange links qualified convenience of our web site.

Liquidation.Com's method and system allows registered buyers and sellers to

participate in the liquidation auctions; collects information from seller relating to the goods; classifies goods; protects seller's sales channels by listing auctions anonymously and also by restricting auctions to specific buyers or areas; conducts background checks on all users to verify their business and their ability to conduct surplus transactions; provides search engine to buyers to find specific auctions. In addition, Liquidation.Com provides buyers the ability to monitor open bids.

Regarding claims 4 and 12, Liquidation.Com system and method allows sellers to list their auction on Liquidation.Com marketplace. Sellers are required to enter their username and password (this service is only available to registered users), and, fill out the forms for the posting. Liquidation.Com allows bidders to ask you questions about the auction. When an interested bidder poses a question regarding seller's auction listing, seller will automatically receive an e-mail message, along with a link to the answer form. Seller's answers to these questions are posted along with the auction.

Regarding claims 5 – 6 and 15 – 18, Liquidation.Com discloses that it conducts background checks on all users to verify users' business and their ability to conduct surplus transactions. Liquidation.Com does not disclose how it conducts background checks on its users. It is, however, well known that

businesses perform background checks manually commercial loans, rental agreement) and/or automatically (car loan application, store credit card issuance) on the entities they want to conduct business with, to ensure their stability and financial condition. For example, businesses may use publicly available information (SEC filings, quarterly earnings report, news papers, magazines, county records etc.), buy reports from providers of business information like Dunn & Bradstreet, or, use privately held information (history data acquired while working with the entity). Therefore it is inherent that Liquidation.Com has system and method it uses verify buyer information using publicly available data, and/or, using privately held data to verify their ability to conduct surplus transactions.

Regarding claims 7, Liquidation.Com discloses that "Liquidation.com has solved the problem of alerting your normal sales channels when you are selling surplus goods at a discount. Auctions are listed anonymously and can be restricted to specific buyers or areas to ensure your protection."

Regarding claims 8 – 9 and 19 – 20, Liquidation.com discloses that its "open technology platform integrates multiple vertical exchanges and brick-and-mortar enterprises into a single global surplus network of buyers and sellers, lowering transaction costs and achieving superior liquidity." Liquidation.Com's online surplus exchange links qualified convenience of our web site.

Liquidation.Com's online surplus exchange links qualified convenience of our web site. Liquidation.Com's method and system allows registered buyers and sellers to participate in the liquidation auctions; collects information from seller relating to the goods; classify goods; protects seller's sales channels by listing auctions anonymously and also by restricting auctions to specific buyers or areas; conducts background checks on all users to verify their business and their ability to conduct surplus transactions; provides search engine to buyers to find specific auctions. In addition, Liquidation.Com provides buyers the ability to monitor open bids.

Regarding claim 13, Liquidation.Com is an online surplus market solution provider. Therefore, it is inherent that approved buyers access Liquidation.Com's system by way of a public communication network.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 USC § 103 as being unpatentable over Liquidation.Com in view Metropolitan Regional Information Systems, Inc. hereinafter known as MRIS.

Regarding claim 14, Liquidation.Com does not disclose providing private communications network. However, MRIS has a system exclusively designed for Real Estate Brokers, Salespersons and Appraisers. MRIS subscribers can access the system using the internet, or, their private network (user dials into MRIS system using Realtor Workstation provided by MRIS). Therefore, at the time of the invention, it is obvious to a person with ordinary skill in the art to modify Liquidation.Com as taught by MRIS by restricting users to access the network through their private network to further restrict access to the information to the selected users.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


1. Information On Liquidation.Com
2. How To Use Liquidation.Com
3. Sample of Auction Search at Liquidation.Com
4. Information On MRIS

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naresh Vig whose telephone number is 703.305.3372. The examiner can normally be reached on M-F 7:30 - 5:00 (Alt Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703.308.1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703.746.7239 for regular communications and 703.746.7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.305.3900.

May 3, 2002


WYNN COGGINS
SUPERVISORY PATENT EXAMINER
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